

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

L.C. CUNNINGHAM,

Plaintiff,

v.

J. PERDROZA, et al.,

Defendants.

No. 1:23-cv-00041-ADA-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(ECF Nos. 12, 16)

Plaintiff L.C. Cunningham is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 13, 2023, the assigned Magistrate Judge issued findings and recommendations, recommending that all claims and Defendants be dismissed, except for Plaintiff's failure-to-protect claims against Defendants J. Perdroza, S. Sovoie, and D. Mendez based on Plaintiff's allegations that these Defendants labeled him a "snitch." (ECF No. 12 at 2.) The Magistrate Judge further recommended that Plaintiff's first amended complaint, which complaint it appeared that Plaintiff did not wish to proceed on, be deemed withdrawn. (*Id.*) Those findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*) Plaintiff has not filed objections, and the time to do so has expired.

1 On March 27, 2023, the assigned Magistrate Judge issued additional findings and
2 recommendations, recommending that Plaintiff's motion for preliminary injunction and motion
3 for temporary restraining order be denied without prejudice. (ECF No. 16.) Plaintiff filed a
4 second motion for preliminary injunction and motion for temporary restraining order on April 3,
5 2023. (ECF No. 17.). However, on April 10, 2023, Plaintiff filed a notice asking the Court to
6 ignore his second motion and stating that he agreed with the findings and recommendations to
7 deny his first motion. (ECF No. 18.) Plaintiff has filed no objections to the March 27, 2023,
8 findings and recommendations, and the time to do so has expired.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
10 de novo review of the case. Having carefully reviewed the entire file, the Court concludes that
11 the findings and recommendations are supported by the record and by proper analysis.

12 Accordingly, IT IS HEREBY ORDERED:

- 13 1. The findings and recommendations issued on March 13, 2023 (ECF No. 12), are
14 adopted in full;
- 15 2. All claims and Defendants are dismissed, except for Plaintiff's failure-to-protect
16 claims against Defendants J. Perdroza, S. Sovoie, and D. Mendez based on
17 Plaintiff's allegations that these Defendants labeled him a "snitch";
- 18 3. Plaintiff's first amended complaint (ECF No. 8) is deemed withdrawn;
- 19 4. The findings and recommendations issued on March 27, 2023 (ECF No. 16), are
20 also adopted in full;
- 21 5. Plaintiff's motions for preliminary injunction and motions for a temporary
22 restraining order (ECF Nos. 15, 17) are denied without prejudice;
- 23 6. The Clerk is directed to terminate as no longer pending Plaintiff's April 10, 2023
24 notice filing (ECF No. 18); and

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7. This case is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: May 31, 2023


UNITED STATES DISTRICT JUDGE